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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**In re:**

**PG&E CORPORATION,**

**- and -**

**PACIFIC GAS AND ELECTRIC  
COMPANY,**

**Debtors.**

Case No. 19-30088 (DM)  
Chapter 11  
(Lead Case)  
(Jointly Administered)

**OBJECTION TO CONFIRMATION AND  
RESERVATION OF RIGHTS OF  
ADVENTIST HEALTH, AT&T,  
PARADISE ENTITIES AND COMCAST  
TO DEBTORS' AND SHAREHOLDER  
PROPOSERS' JOINT CHAPTER 11**

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- ☐ Affects PG&E Corporation
  - ☐ Affects Pacific Gas and Electric Company
  - ☒ Affects both Debtors
- \* All papers shall be filed in the Lead Case,  
No. 19-30088 (DM)*

**PLAN OF REORGANIZATION DATED  
MARCH 16, 2020**

Date: May 27, 2020  
Time: 10:00 a.m. (PT)  
Place: United States Bankruptcy Court  
Courtroom 17, 16<sup>th</sup> Floor  
San Francisco, CA 94102  
Judge: The Hon. Dennis Montali

1 Adventist Health System/West and Feather River Hospital d/b/a Adventist Health Feather  
2 River, each a California religious non-profit corporation (together, “**Adventist Health**”); Paradise  
3 Irrigation District, Paradise Unified School District, Northern Recycling and Waste Services,  
4 LLC/Northern Holdings, LLC, Napa County Recycling & Waste Services, LLC/Napa Recycling &  
5 Waste Services, LLC, and Christian & Missionary Alliance Church of Paradise, dba Paradise  
6 Alliance Church (together, the “**Paradise Entities**”); AT&T Corp. and all affiliates (“**AT&T**”); and  
7 Comcast Cable Communications, LLC and all affiliates (together, “**Comcast**,” and collectively with  
8 Adventist Health, the Paradise Entities, and AT&T, the “**Objectants**”), by and through their  
9 respective undersigned counsel, hereby submit this Objection to Confirmation and Reservation of  
10 Rights (together, the “**Objection**”) regarding the *Debtors’ and Shareholder Proponents’ Joint*  
11 *Chapter 11 Plan of Reorganization Dated March 16, 2020* [Dkt. No. 6320] (the “**Plan**”)<sup>1</sup>, and  
12 respectfully represent as follows:

### 13 **BACKGROUND**

14 1. On March 16, 2020, the Plan Proponents filed the Plan. Under the Plan, all Fire  
15 Victim Claims, including the Fire Victim Claims asserted by each of the Objectants, shall be  
16 compensated from the Fire Victim Trust, which will be governed by, among other things, various  
17 trust documents, including the proposed Fire Victim Trust Agreement (the “**Trust Agreement**”)  
18 and the Fire Victim Claims Resolution Procedures (the “**CRP**” and together with the Trust  
19 Agreement the “**Trust Documents**”), proposed final versions of which were filed with this Court  
20 on May 1, 2020 [Dkt. No. 7037].

21 2. In accordance with the Disclosure Statement Order [Dkt. No. 6340], the deadline  
22 for submitting ballots to vote to accept or reject the Plan, as well as filing and serving objections to  
23 the Plan, is May 15, 2020 at 4:00 p.m. (Prevailing Pacific Time) (the “**Confirmation Objection**  
24 **Deadline**”).

25 3. Pursuant to the *Stipulation by and Among the Plan Proponents, the Official*  
26 *Committee of Tort Claimants, the Adventist Health Claimants, the Paradise Related Entities, AT&T*

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27 <sup>1</sup> Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in  
28 the Plan.

1 and Comcast Regarding Fire Victim Trust Document Issues [Dkt. No. 7050] (the “**Briefing**  
2 **Stipulation**”), the Plan Proponents, the TCC and the Objectants agreed to an expedited briefing  
3 and hearing schedule with respect to the Objectants’ concerns regarding the Trust Documents.  
4 Under the Briefing Stipulation, the Objectants’ objection to the Trust Documents [Dkt. No. 7072]  
5 (the “**Trust Documents Objection**”) was limited in scope to the Trust Documents (excluding any  
6 objections pursuant to section 1129(b) of the Bankruptcy Code), with all other objections to the  
7 Plan to be reserved for the Confirmation Hearing and filed in accordance with the deadlines  
8 established in the Disclosure Statement Order.

9 4. By Order dated May 4, 2020 [Dkt. No. 7060] (the “**Briefing Order**”), the Court  
10 approved the Briefing Stipulation. Pursuant to the Briefing Order, the Objectants filed the Trust  
11 Documents Objection on May 5, 2020, and a hearing with respect to the Trust Documents Objection  
12 took place on May 15, 2020 (the “**Trust Documents Hearing**”).

13 5. Pursuant to the deadlines established under the Disclosure Statement Order and the  
14 Briefing Stipulation, the Plan voting results will not be known until after the Confirmation  
15 Objection Deadline has passed. Similarly, because of the timing of the Trust Documents Hearing,  
16 the Court’s ruling with respect to the Trust Documents Objection also may not be known until after  
17 the Confirmation Objection Deadline has passed. For this reason, the Objectants file this Objection  
18 in the event that either: (a) the Court does not rule on the Trust Documents Objection; or (b) the  
19 Plan is rejected by Class 5A-III (Holdco Fire Victim Claims) and Class 5B-III (Utility Fire Victim  
20 Claims) (collectively, the “**Fire Victim Classes**”), in which case the Plan must satisfy section  
21 1129(b)(1) of the Bankruptcy Code.

## 22 **OBJECTION TO CONFIRMATION AND RESERVATION OF RIGHTS**

### 23 A. The Trust Documents Violate Both Federal Bankruptcy Law and State Law.

24 6. As set forth in the Trust Documents Objection, the contents of which are  
25 incorporated herein by this reference, the Trust Documents’ denial of access to this Court for the  
26 adjudication of the Objectants’ claims, improper treatment of insurance claims, and the other issues  
27 raised in the Trust Documents Objection, violate both federal bankruptcy law and state law for all  
28 the reasons set forth in the Trust Documents Objection. Accordingly, and to the extent that the

1 Court has not issued its ruling with respect to such Objection, or the Trust Documents have not  
2 been amended to address the Objectants' concerns described therein as of the date of this filing, the  
3 Objectants hereby incorporate those objections herein by this reference and request this Court to  
4 adjudicate those issues in connection with confirmation.

5 B. The Plan Violates The Absolute Priority Rule and Unfairly Discriminates Against  
6 Fire Victims.

7 7. If the treatment being afforded Fire Victim Claims in the Plan is rejected by the Fire  
8 Victim Classes, then the Plan violates section 1129(b), which provides that if a plan meets all of  
9 the requirements for confirmation other than having an impaired, accepting class of creditors, the  
10 court may confirm the plan only "if the plan does not discriminate unfairly, and is fair and equitable  
11 with respect to each class of claims or interests that is impaired under, and has not accepted, the  
12 plan." 11 U.S.C. § 1129(b)(1). For the reasons set forth below, the Objectants reserve all rights to  
13 argue at the Confirmation Hearing that the Plan cannot be confirmed despite the Fire Victim  
14 Classes' rejection of the Plan because such plan does not provide "fair and equitable" treatment  
15 with respect to, and unfairly discriminates against, Fire Victim Claimants. *Id.*

16 8. **First**, the Plan is not "fair and equitable" with respect to Fire Victim Claimants  
17 because the Plan's distribution scheme violates the absolute priority rule contemplated by section  
18 1129(b)(2)(B)(ii) of the Bankruptcy Code. 11 U.S.C. § 1129(b)(2)(B)(ii) ("the holder of any claim  
19 or interest that is junior to the claims of such class will not receive or retain under the plan on  
20 account of such junior claim or interest any property"). This rule provides that equity interest  
21 holders retain nothing if unsecured creditors have not been paid in full; otherwise, a plan may not  
22 be confirmed under section 1129(b). *In re RAMZ Real Estate Co., LLC*, 510 B.R. 712, 718 (Bankr.  
23 S.D.N.Y. 2014) (denying confirmation of plan pursuant to 11 U.S.C. § 1129(b)(2)(B)(ii) where  
24 plan provided for equity to retain interest in debtor while unsecured claims were not paid in full);  
25 *In re Woodbridge North Apts., Ltd.*, 71 B.R. 189, 190-91 (Bankr. N.D. Cal. 1987) (stating that  
26 proposed plan in which equity holders would receive stock and holders of unsecured deficiency  
27 claims would be paid nothing would not be fair and equitable with respect to holders of unsecured  
28 deficiency claims). Here, the Plan provides that holders of Holdco Common Interests, Holdco

1 Other Interests, Utility Preferred Interests and Utility Common Interests will either retain their  
2 interests subject to dilution or be reinstated, while Fire Victim Claims will not receive payment in  
3 full. Plan §§ 4.13(a), 4.15(a), 4.33(a), 4.34(a). This is a clear violation of the absolute priority rule.  
4 Accordingly, the Plan does not provide “fair and equitable” treatment for Fire Victim Claims.

5 9. **Second**, the Plan cannot be confirmed because it unfairly discriminates against Fire  
6 Victim Claimants as compared to the similarly situated classes of General Unsecured Claims,  
7 Subrogation Wildfire Claims and Public Entities Wildfire Claims, who like the Objectants and other  
8 creditors in the Fire Victim Classes, also hold general unsecured claims against the Debtors. *Aetna*  
9 *Realty Inv’rs, Inc. v. Monarch Beach Venture, Ltd. (In re Monarch Beach Venture, Ltd.)* 166 B.R.  
10 428, 437 (C.D. Cal. 1993) (“Reducing ‘discrimination’ to its bare essentials, a dissident class must  
11 ... receive treatment which allocates value to the class in a manner consistent with the treatment  
12 afforded to other classes with similar legal claims against the debtor.”) *Corestates Bank, N.A. v.*  
13 *United Chem. Techs., Inc.*, 202 B.R. 33, 47 (E.D. Pa. 1996) (citations omitted) (same).

14 10. Under the Plan, Fire Victim Claims will be channeled to the Fire Victim Trust and  
15 paid exclusively from the Trust Assets, which assets are comprised of \$6.75 billion in cash and  
16 \$6.75 billion in stock. Plan §§ 1.6, 4.7(a), 4.26(c). It is unlikely, however, that Fire Victim Claims  
17 will receive payment in full on account of their asserted claims for at least two reasons: (1) despite  
18 initial optimism that the Trust Assets will be sufficient to pay all Fire Victim Claims in full, the  
19 more likely outcome is that Fire Victim Claims will be paid only a portion of their asserted claims  
20 from the Trust Assets, hopefully on a *pro rata* basis;<sup>2</sup> and (2) the Trust Agreement provides that  
21 Fire Victim Claims may be reduced by the Trustee, in his sole discretion, by insurance proceeds  
22 received or to be received by Fire Victim Claimants. Trust Agreement § 2.6.

23 11. Indeed, from all of the information provided to the Objectants so far, the settled  
24 amount (stock and cash) is not sufficient to pay all Fire Victim Claimants in full. As recently as  
25 the March 10, 2020 hearing on the adequacy of the Disclosure Statement, this Court asked the  
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27 <sup>2</sup> As discussed in the Trust Documents Objection, the Trust Documents were revised to provide  
28 that “Approved Fire Victim Claims [will] receive a *pro rata* distribution or as close thereto as  
possible, regardless of when such claim is fully administered...”. Trust Agreement § 2.1 (e) (vii).

1 Debtors whether they could include in the proposed Disclosure Statement a most common and  
2 customary provision – namely a range of recoveries that the Fire Victim Claimants could expect to  
3 receive under the Plan. [Transcript of Mar. 10, 2020 Hearing (the “**3/10 Transcript**”), 40:23; 41:4.]  
4 At first, the Debtors’ counsel advised the Court that the Debtors believed, “based on [their] internal  
5 analysis, that the trust is sufficient to satisfy the claims.” [3/10 Transcript, 42:2-4.]

6 12. When asked by the Court to give further information, however, the Debtors  
7 demurred, stating that they were “not guaranteeing anything.” [3/10 Transcript, 42:16.] Instead,  
8 the Debtors later commented that “[t]he tort claimants’ committee has prepared the claims-  
9 resolution procedures and the trust documents. That has been within their purview since we  
10 commenced the negotiations. They have the best information on this. We have asked them to give  
11 us a range--”. [3/10 Transcript, 44:20-24.]

12 13. When pressed at the continued hearing on March 11, 2020, however, the TCC was  
13 unable to provide a range of recoveries for tort claimants. [Transcript of Mar. 11, 2020 Hearing  
14 (the “**3/11 Transcript**”), 36:2; 37:20.] It admitted that they “don’t know what those [total] damages  
15 even are. And so, it’s impossible to figure that out.” [3/11 Transcript, 37:15-20.] Indeed, in  
16 discovery propounded by Cal OES to the TCC, the TCC admitted outright that “**\$13.5 billion is**  
17 **not enough to fully compensate the fire victims,**” even without the claims of FEMA and Cal  
18 OES. *See TCC’s Reply in Support of Omnibus Objection to Claims Filed by California Governor’s*  
19 *Office of Emergency Services* [Dkt. No. 5836] at 2:10-11 (emphasis added).

20 14. Instead, all the TCC was able to offer was that the Plan will provide a “process” by  
21 which the Fire Victim Claims will be adjudicated. “[W]hat these people are voting for is a process  
22 for how they’re going to get their money.” [3/11 Transcript, 37:5-6.] As the Objectants have  
23 demonstrated already in the Trust Documents Objection, that “process” is fundamentally flawed  
24 and itself violates the Bankruptcy Code. Accordingly, the Plan’s distribution scheme violates the  
25 absolute priority rule contemplated by section 1129(b)(2)(B)(ii) and would not be allowed.

26 15. The Plan’s treatment of Fire Victim Claims stands in marked contrast to the Plan’s  
27 treatment of General Unsecured Claims. While Fire Victim Claims will only be paid a portion of  
28 their claims (and their payment is dependent on the value of the volatile PG&E stock), holders of



1 General Unsecured Claims are to receive payments in cash in the full amount of their claims on the  
2 Effective Date. Plan §§ 4.4(a), 4.23(a). The Plan's treatment of Fire Victim Claims also starkly  
3 contrasts with the treatment afforded Public Entities Wildfire Claims and Subrogation Wildfire  
4 Claims. While Fire Victim Claimants will see their claims reduced by the amount of insurance  
5 proceeds they received or will receive, the Plan will pay Public Entities Wildfire Claims in cash  
6 regardless of the amount of insurance proceeds such claimants receive. Plan §§ 4.5(a), 4.24(a). In  
7 addition, Public Entities Wildfire Claims and Subrogation Wildfire Claims will be paid in cash  
8 under the Plan, while Fire Victim Claimants will be paid from assets in the Fire Victim Trust, the  
9 value of which is subject to market volatility due to its stock component. *Id.* at §§ 4.5, 4.6(a),  
10 4.24(a), 4.25(b).

11 16. The Plan's inferior treatment of Fire Victim Claims, as compared to General  
12 Unsecured Claims, Public Entities Wildfire Claims and Subrogation Wildfire Claims, all of which  
13 are unsecured claims of equal priority, constitutes unfair discrimination in violation of section  
14 1129(b)(1) of the Bankruptcy Code.

15 C. Ambiguities Exist in the Plan That Should Be Addressed.

16 17. Certain provisions of the Plan are either potentially inconsistent with other  
17 provisions of the Plan, or are drafted expansively so as to create issues where none may exist.  
18 Given that these issues may be inadvertent drafting errors, the Objectants reached out to the Debtors  
19 to see if these issues could be addressed, and suggested language to address their concerns. As of  
20 the date hereof, the Objectants had not yet received a response, thereby making it necessary for the  
21 Objectants to raise these matters in this Objection.

22 18. *Treatment of Administrative Expense Claims:* Section 2.1 of the Plan states that "no  
23 Administrative Expense Claims shall be discharged pursuant to the Plan." Yet, the discharge  
24 provision in Section 10.3 of the Plan creates a potential ambiguity. While Section 10.3 is prefaced  
25 by the phrase: "except as otherwise provided herein" (and that presumably is intended to provide  
26 a complete override to the discharge provision in respect of all administrative claims), Section 10.3  
27 also includes a carve-out proviso which, by its terms, is expressly limited to postpetition fire claims  
28



1 notwithstanding the general override provision.<sup>3</sup> Attached hereto as Exhibit “A” is a proposed  
2 revision to Section 10.3 to address the Objectants’ concerns..

3 19. *Scope of Relief Afforded By The Plan.* The language of several sections in the Plan  
4 appears particularly broad-based in terms of scope of relief being provided, most likely to take into  
5 account that certain ballots afford non-Fire Victim Claimants the option to provide voluntary  
6 releases. *See* Plan, §§ 1.21, 5.9, 6.1, 10.9 (for example, Section 6.1 provides that “[t]he Plan shall  
7 be deemed a motion to approve a good faith compromise and settlement pursuant to which the  
8 Debtors and holders of Claims against . . . the Debtors settle *all Claims, . . . and Causes of Action,*”  
9 when Claimants may also hold claims against third parties such as insurers for reimbursement of  
10 their damages) (emphasis added). The Objectants acknowledge and appreciate that the Debtors  
11 have removed the option to provide a voluntary release from Fire Victim Claimants’ ballots as well  
12 as added Section 10.9(c) to address the inability to release third parties non-consensually in the  
13 Ninth Circuit. However, the language of Section 10.9(c) does not expressly address the broad  
14 language of the other Plan sections. The Objectants request that Section 10.9(c) be further clarified  
15 as set forth in Exhibit “A”.

16 20. *Inconsistent Rules of Construction and Interpretation.* Subsections (j) and (k) on  
17 Page 36 of the Plan have rules of interpretation or construction which could be seen as inconsistent  
18 with other provisions of the Plan or Trust Documents governing amendments, and may permit  
19 modifications of the Plan in violation of section 1127(b) of the Bankruptcy Code. Accordingly, the  
20 Objectants request that Page 36 of the Plan be revised as set forth in Exhibit “A.”

### 21 CONCLUSION

22 21. WHEREFORE, for the reasons set forth above, the Objectants respectfully request  
23 that the Court (a) address the Trust Documents Objection to the extent not earlier addressed or  
24 otherwise resolved, (b) if the Plan is rejected by the Fire Victim Classes, deny confirmation of the  
25 Plan on the basis that it fails to satisfy section 1129(b) of the Bankruptcy Code, and (c) address the

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26 <sup>3</sup> Section 10.3 improperly broadens the scope of discharge beyond that permitted by section  
27 1141(d)(1)(A) of the Bankruptcy Code. The reference to “Effective Date” set forth in Section  
28 10.3 of the Plan should be changed to “Confirmation Date,” so as to be compliant with section  
1141(d)(1)(A) of the Bankruptcy Code.

1 ambiguities in the Plan as proposed above and as set forth in Exhibit "A" attached hereto.

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3  
4 Dated: May 15, 2020

RESPECTFULLY SUBMITTED:

NORTON ROSE FULBRIGHT US LLP

6 By: /s/ Rebecca J. Winthrop

7 Rebecca J. Winthrop

8 David A. Rosenzweig

Attorneys for ADVENTIST HEALTH

9 Dated: May 15, 2020

REED SMITH LLP

10 By: /s/ David E. Weiss

11 David E. Weiss

Attorneys for PARADISE ENTITIES

12 Dated: May 15, 2020

ARNOLD & PORTER KAYE SCHOLER LLP

14 By: /s/ Benjamin Mintz

15 Benjamin Mintz

Attorneys for AT&T

16 Dated: May 15, 2020

17 WILMER CUTLER PICKERING HALE &  
DORR LLP

18 By: /s/ Craig Goldblatt

19 Craig Goldblatt

Attorneys for COMCAST

**EXHIBIT "A"**

1. Requested revisions to Section 10.3 (suggested revisions are bolded and underlined for clarity)::

Upon the Effective Date and in consideration of the distributions to be made hereunder, except as otherwise expressly provided herein **or in Section 2.1 of this Plan**, each holder (as well as any representatives, trustees, or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the **Confirmation** Date; *provided, however*, that any liability of the Debtors arising from any fire **or any other act or omission** occurring after the Petition Date, including the Kincade fire, that has not been satisfied in full as of the Confirmation Date shall not be discharged, waived, or released. In addition, (a) from and after the Effective Date neither the automatic stay nor any other injunction entered by the Bankruptcy Court shall restrain the enforcement or defense of any claims for fires or other act or omission occurring after the Petition Date, including the Kincade fire or the Lafayette fire in any court that would otherwise have jurisdiction if the Chapter 11 Cases had not been filed and (b) no claims for fires **or any other act or omission** or motions for allowance of claims for fires **or any act or omission** occurring after the Petition Date need to be filed in the Chapter 11 Cases. Upon the **occurrence of** the Effective Date **and except as provided in Section 2.1 of this Plan**, all such Persons shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or Interest in the Debtors.

2. Requested revisions to Section 10.9(c) (suggested revisions are bolded and underlined):

Except as set forth under Section 4.25(f)(ii) hereof, for the avoidance of doubt, and notwithstanding any other provision of this Plan, nothing in the Plan is intended to, nor shall the Plan be interpreted to, effect a nonconsensual release, **satisfaction, compromise, settlement or discharge of**, a holder of a Claim **or Cause of Action**, in favor of a party that is not a Debtor, it being acknowledged that such holder shall be deemed to **have released, or to effectuate a satisfaction, compromise, settlement or discharge of**, a party that is not a Debtor under the Plan solely to the extent that such holder consensually elects to provide such Plan release in accordance with the opt-in release procedures set forth herein or in any applicable Ballot. The holder of a Claim shall receive the same amount of consideration under the Plan whether or not such holder elects to release a party that is not a Debtor in accordance with the opt-in release procedures set forth herein or in any applicable Ballot.

3. Requested revisions to subsections (j) and (k) of the Interpretation; Application of Definitions and Rules of Construction (suggested revisions are bolded and underlined):

1 (j) any effectuating provisions may be interpreted by the Reorganized Debtors in a  
2 manner consistent with the overall purpose and intent of the Plan, all without further  
3 notice to or action, order, or approval of the court or any other entity, and such  
4 interpretation shall control in all respects **to the extent permitted by Section 12.6**  
5 **of the Plan**; (k) any effectuating provisions relating to the Fire Victim Claims, Fire  
6 Victim Trust, Subrogation Wildfire Claims, or Subrogation Wildfire Trust may be  
7 interpreted by the Fire Victim Trustee or the Subrogation Wildfire Trustee, as  
8 applicable, in a manner consistent with the overall purpose and intent of the Plan,  
9 all without further notice to or action, order, or approval of the court or any other  
10 entity, and such interpretation shall control in all respects **to the extent permitted**  
11 **by the Trust Documents**;  
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**CERTIFICATE OF SERVICE**

I, Rebecca J. Winthrop, declare:

I am a resident of the state of California and over the age of eighteen years, and not a party to the within action; my business address is 555 South Flower Street, Forty-First Floor, Los Angeles, California, 90071. On May 15, 2020, I served the within document:

**OBJECTION TO CONFIRMATION AND RESERVATION OF RIGHTS  
OF ADVENTIST HEALTH, AT&T, PARADISE ENTITIES AND COMCAST TO  
DEBTORS' AND SHAREHOLDER PROPONENTS' JOINT CHAPTER 11 PLAN  
OF REORGANIZATION DATED MARCH 16, 2020**

By Electronic Service via CM/ECF to all registered participants in this case as of May 15, 2020.

/s/ Rebecca J. Winthrop  
Rebecca J. Winthrop